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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,053	12/06/2001	Malcom R. Melancon	RA-1658	6022

7590 11/28/2003

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EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/016,053

Applicant(s)

MELANCON ET AL.

Examiner

Kofi A. Schulerbrandt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 12, 2003 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffen (4,037,527) in view of Joy (3,785,271). Steffen teaches, substantially, each feature of the claimed invention as shown in the red marked up copy of Steffen's Figure 3 attached to the Office Action of November 19, 2002. Steffen, however, does not teach an opening in the wall. Joy teaches an opening in the wall as shown in the red marked up copy of Joy's Figure 4 attached to the Office Action of November 19, 2002. It would have been obvious to one of ordinary skill in the art at the time of invention to have made an opening in Steffen's wall in order to pass, for example, electrical wires for supplying a socket with electricity for use in Steffen's bin (10) as taught by Joy.

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Regarding claim 4, it is well known to provide slots in place of holes for flexibility of fastening of flanges.

***Examiner's Response to Applicant's Remarks***

Applicant's arguments with regard to claims 17-20 have been considered. After careful consideration, Applicant's arguments were found to not have been persuasive.

Applicant argues that Steffen is an inappropriate reference because it does not solve the same problem. The examiner's framing of the problem to be solved is reasonable though broader than Applicant's framing. The problem is one of supporting a circulating fan externally to a vessel for the purpose of generating airflow through the vessel. The present invention clearly seeks to solve this problem. Furthermore, one seeking to solve this problem may well look to all types of vessels including grain bins. Steffen clearly supports the fan externally to the vessel using a structure that is similar to the present invention except for an opening. Joy is being cited specifically for an opening. Joy teaches an external fan supported by a structure having an opening in the side. Joy's opening is for electrical wires. It would have been obvious to one of ordinary skill in the art at the time of invention to have formed an appropriate sized opening in the side of Steffen's fan support as taught by Joy in order to pass electrical wires as taught by Joy.

Applicant further asserts that the recited language "permanently" or "temporarily" makes the claimed apparatus more or less patentable. The examiner disagrees that a permanent or temporary positioning of the claimed invention with respect to the vessel

changes the patentability of the pending apparatus claims. The features "permanently" or "temporarily" do not add to the apparatus claims because they do not teach additional structure, but merely affect the intended use of the claimed apparatus.

Moreover, in this case, Stephen teaches a fan support structure similar to the claimed structure in that it is bolted to the vessel and to the fan. In other words, either a permanent or temporary configuration of Steffen's fan support may be achieved at will.

Finally, applicant argues that Joy teaches permanently closing the opening with a socket. The examiner asserts that there is still a hole in the fan support, the socket is not permanently placed because it has removable screws and wires still effectively extend through the opening even when the socket "permanently" closes the opening.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

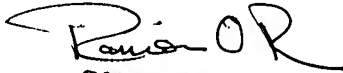
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Kofi Schulterbrandt  
November 18, 2003



**RAMON O. RAMIREZ**  
**PRIMARY EXAMINER**  
**ART UNIT 355 3632**